

## Message Text

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PAGE 01 PORT A 04686 261530Z  
ACTION ARA-14

INFO OCT-01 ISO-00 HA-05 CIAE-00 DODE-00 PM-05 H-01  
INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02  
SS-15 USIA-06 AID-05 /071 W  
-----013208 261552Z /40  
R 232107Z DEC 77  
FM AMEMBASSY PORT AU PRINCE  
TO SECSTATE WASHDC 7097  
INFO AMEMBASSY SANTO DOMINGO

LIMITED OFFICIAL USE PORT AU PRINCE 4686

E.O. 11652: N/A  
TAGS: SHUM, PGOV, CDES, HA  
SUBJECT: PRESIDENTIAL DECREE CONCERNING LEGAL RULING ON MISSING  
PERSONS

REF: PORT AU PRINCE 3720

1. A PRESIDENTIAL DECREE DATED NOVEMBER 24 AND PUBLISHED  
DECEMBER 15, 1977 PRESCRIBES HOW PERSONS IMPRISONED AND LATER  
DISAPPEARED IN HAITI CAN BE DECLARED LEGALLY DECEASED. THE  
DECREE STIPULATES THAT ANY HAITIAN WHO HAS DISAPPEARED WHILE  
A RESIDENT OF HAITI, AND WHOSE BODY HAS NOT BEEN FOUND, CAN  
BE DECLARED LEGALLY DECEASED IF THE CIRCUMSTANCES SURROUNDING  
HIS/HER DISAPPEARANCE ESTABLISH THAT HIS/HER LIFE HAD BEEN PUT  
IN DANGER. THE MOST SIGNIFICANT ASPECT OF THE DECREE IN TERMS  
OF HAITIAN POLITICAL DEVELOPMENT IS THAT IS SPECIFICALLY EXTENDS  
THIS NEW LEGAL PROCEDURE TO PERSONS WHO DISAPPEARED AND PRESUMABLY  
DIED IN THE NATION'S "PRISONS AND OTHER INSTITUTIONS OF CONFINEMENT  
AND DETENTION" IN CASES WHEN PENAL AUTHORITIES DID NOT  
OBSERVE THE LEGALLY REQUIRED RECORD-KEEPING FORMALITIES.

2. A REQUEST FOR A JUDICIAL RULING ON THE CASE OF A MISSING  
PERSON MUST BE ADDRESSED WITH THE FACTS OF THE CASE TO THE  
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HEAD OF THE CIVIL TRIBUNAL OF THE PLACE OF THE DISAPPEARANCE  
OR PRESUMED DEATH, IF THAT EVENT OCCURRED IN HAITI, OR TO THE  
HEAD OF THE CIVIL TRIBUNAL OF THE LAST RESIDENCE IN HAITI  
OF THE MISSING PERSON. SUCH A REQUEST CAN BE MADE BY THE  
GOVERNMENT PROSECUTOR OF THE CONCERNED JURISDICTION OR  
BY ANY OTHER PARTY WHO CAN JUSTIFY A "REAL AND PRESENT"  
INTEREST IN THE CASE. AN AFFIRMATIVE JUDGEMENT OF DECEASE

IS TO HAVE THE LEGAL FORCE OF A DEATH CERTIFICATE AND WILL ALLOW HEIRS TO COLLECT INSURANCE, INHERIT AND DISPOSE OF PROPERTY, ETC.

3. COMMENT: THE PRESIDENTIAL DECREE OF NOVEMBER 24 IS THE TRANSLATION INTO LAW OF THE PLEDGE MADE BY INTERIOR AND DEFENSE MINISTER AURELIEN JEANTY, ON SEPTEMBER 28, THAT HAITIAN COURTS WOULD BE AUTHORIZED TO EXAMINE CASES OF POLITICAL "DETAINEES" WHO ARE PRESUMED TO HAVE DIED IN PRISON (REFTEL). ACCORDING TO LOCAL LAWYERS, THESE NEW PROCEDURES FOR JUDICIAL DECLARATION OF DECEASE ALSO HAVE THE ADVANTAGE FOR THE GOVERNMENT OF AVOIDING QUESTIONS OF CAUSE AND CULPABILITY WHICH WOULD BE INVOLVED IN THE ISSUANCE OF DEATH CERTIFICATES. EMBASSY WILL CONTINUE TO MONITOR THE PERFORMANCE OF THE GOH IN ACTUALLY ADJUDICATING CASES OF MISSING PERSONS.

4. EMBASSY IS POUCHING FULL TEXT OF DECREE.  
JONES

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NNN

## Message Attributes

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**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 22 May 2009  
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